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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,097	12/20/2001	Joshua R. Kornau	21456-13	2720

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EXAMINER

HEWITT, JAMES M

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 05/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

8K

Office Action Summary	Application No. 10/027,097	Applicant(s) KORNAU ET AL.	
	Examiner James M Hewitt	Art Unit 3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) 11, 12, 15-18, 21-23, 26-29 and 32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 8-10, 13, 14, 19, 20, 24, 25 and 31 is/are rejected.
- 7) ☒ Claim(s) 6, 7 and 30 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4</u> | 6) <input type="checkbox"/> Other: |

DETAILED ACTION

Election/Restrictions

Applicant's election with traverse of Species I in Paper No. 7 is acknowledged. The traversal is on the ground(s) that it would not be unreasonably burdensome for the examiner to consider all of the claims as originally filed. This is not found persuasive because each of the claimed species are considered patentably distinct, and the search required for each would be different; searching Species II or III would entail searching different and additional subclasses, and would also require a different text search.

The requirement is still deemed proper and is therefore made FINAL.

Claims 11-12, 15-18, 21-23, 26-29 and 32 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 7.

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

On line 1 of the abstract, the implied phrase "The present invention relates to" should be deleted. And on line 2, "comprises" constitutes legal phraseology and thus should be replaced.

The disclosure is objected to because of the following informalities:

On page 8 line 23, it is apparent that "my" should be "may".

Appropriate correction is required.

Claim Objections

Claims 1-10, 13-14, 19-20, 24-25 and 30-31 are objected to because of the following informalities:

✓ In claim 1 line 6, it is apparent that "a pair of flanged fittings" should be replaced with "the pair of flanged fittings" to reference the same recited in the preamble.

✓ In claim 5 line 2, "a closed position" should be "the closed position" to reference the same recited on line 4 of claim 1.

✓ In claim 10 line 1, it is apparent that "each half" should be "each arm".

✓ In claim 10 line 2, it is apparent that "the two aligned fittings" should be "the two fittings".

✓ In claim 13 line 4, "end" should be inserted after the second instance of "base".

✓ In claim 13 line 7, "end" should be inserted after "base".

✓ In claim 13 line 8, "end" should be inserted after each instance of "base".

✓ In claim 24 line 5, "potions" should be "portions".

✓ In claim 24 line 5, it is apparent that "a pair of flanged fittings" should be replaced with "the pair of flanged fittings" to reference the same recited in the preamble.

✓ In claim 24 line 9, "a closed position" should be "the closed position" to reference the same recited on lines 3-4.

✓ In claim 30 line 2, "said first and second arm" should be replaced with "said arms".

✓ In claim 31 line 1, "the first and second arms" should be replaced with "the arms".

The claims have been considered as if the above changes have been incorporated.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 10, 24-25 and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Wolters et al (US 4,036,258).

With respect to claim 1 and with particular reference to the embodiment of Figures 3 and 4, Wolters et al disclose a self-aligning coupling for mating a pair of axial arranged first and second flanged fittings (6, 6a with flanges 2, 2a), the coupling comprising: first and second arms (10, 10a) adapted for pivotal connection to one another and having open and closed relative pivotal positions in use (see Figures 3 and 4); and a rotational assist mechanism (pneumatic drive arrangement) adapted to

~~mechanically synchronize the closing of the first and second arms relative to the pair of~~
flanged fittings (6, 6a) to be connected in use, and further adapted to provide motion
~~between the first arm and the second arm to receive and secure the second flanged~~
fitting.

With respect to claim 2, further comprising a seal (see O-ring disposed between abutting faces of the fittings in Figure 1) for providing sealed fluid communication between the first flanged fitting and the second flanged fitting.

With respect to claim 3, further comprising an interior surface having a conical self-alignment portion adapted to orient the second flanged fitting relative to the first flanged fitting.

The interior surface of arms (10, 10a) defines an inner groove which is conical and abuts and encompasses the outer surfaces of the flanges (2, 2a). This is shown in Figure 1.

With respect to claim 4, wherein the self-alignment portion is adapted to orient the two flanged fittings from a maximum of about 10 degrees of angular misalignment therebetween.

Note that it has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138. Wolters' conical surface is considered able to orient the two flanged fittings from a maximum of about 10 degrees of angular misalignment therebetween.

With respect to claim 5, further comprising a fastener (13) for further securing the arms in the closed position (see Figure 3 and col. 4 lines 59-62).

With respect to claim 10, further wherein each half comprises a single mating groove adapted to receive the flanges of the two fittings in use. Refer to the rejection of claim 3.

With respect to claim 24 and with particular reference to the embodiment of Figures 3 and 4, Wolters et al disclose a self-aligning coupling for mating a pair of corresponding flanged fittings (6, 6a with flanges 2, 2a), comprising: a pair of arms (10, 10a) adapted for pivotal connection between open and closed positions, the arms at least partially defining a mating groove (refer to the rejection of claim 3) adapted to receive at least portions of the pair of flanged fittings to be coupled; and a rotational assist mechanism (pneumatic drive arrangement) linking the arms and adapted to move the arms such that the flanged fittings can be received in the mating groove as the arms are effectively pivoted in a closed position.

With respect to claim 25, wherein the rotational assist mechanism comprises first and second interacting members (44, 45) adapted to mechanically synchronize rotational orientation of the two arms as they are pivoted in use.

With respect to claim 31, wherein the first and second arms are hingedly oriented in a clamshell arrangement relative to one another in use.

Claims 13-14, and 19-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Cooper et al (US 3,744,825).

With respect to claim 13, Cooper et al. disclose a self-aligning coupling for mating a pair of axial arranged first and second pipes (12), the mating ends of the first and second pipes having first and second flanged fittings (14, 16), respectively, the self-aligning coupling comprising: a first arm (46) having a base end (at hinge) and a receiving end (at 64), the first arm base end pivotally connected adjacent to the first flanged fitting in use; and a second arm (48) having a base end (at hinge) and a receiving end (at 60, 62), the second arm base end pivotally connected adjacent to the first flanged fitting in use, wherein the second arm base end engages the first arm base end whereby the receiving ends of the arms can be synchronously moved (e.g. manually) between an open position and a closed position to receive and secure the flanged fitting of the second pipe.

With respect to claim 14, wherein at least one of the arms comprises a self-alignment surface (50) which angularly aligns the second fitting with the first fitting in the closed position.

With respect to claim 19, further comprising a mating groove (50) at least partially defined by a portion of each arm.

With respect to claim 20, further comprising a seal (18) disposed within the mating groove in use.

-----The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all -----
obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over
Wolters et al (US 4,036,258) in view of Fahnoe (US 3,575,683)

Wolters et al teaches all limitations of claims 8 and 9 except for a garter spring arranged to normally bias the arms toward the closed position. Fahnoe teaches the use of a garter spring to maintain and ensure engagement of an outer sleeve (70) with a pipe section (73) to provide a good electrical connection. Although specifically Fahnoe teaches the use of a garter spring to provide a good electrical connection between components, in a broad sense the spring is used to maintain a tight and secure connection between two parts, and in view of Fahnoe's teaching, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Wolters' device to further include a garter spring in order to maintain and ensure a tight and secure connection between the two pipe fittings.

Wolter's arms include a groove on the outer surface peripheral surface thereof. This groove is shown in Figure 1 on the outer surface of arms 3, 3a and is suitable to hold a garter spring.

With respect to claim 9, further including a groove on an outer surface of the first and second arms (see groove shown in Figure 1 on outer surface of arms 3, 3a).

----- It should be noted that Fischer (US 4,509,763), Johnson et al. (US Reissue
22,337) and Scholin (US 4,108,447) all employ garter springs to ensure a tight and
----- secure engagement between two components. -----

Allowable Subject Matter

Claims 6-7 and 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Note that the allowability of claim 6-7 and 30 is contingent on overcoming the above claim objections (see ***Claim Objections***).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fiori, Muchow, Sanwald et al, Paddington ('997), Lawson, Creedon, Paddington ('635), Katzenmeyer et al, McLennan, Stapleton, Groves et al, Shotbolt, Smith and Ikeda all constitute prior art devices considered by the Examiner to be relevant to the claimed invention(s).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James M Hewitt whose telephone number is 703-305-0552. The examiner can normally be reached on M-F, 930am-600pm.

~~If attempts to reach the examiner by telephone are unsuccessful, the examiner's~~
supervisor, Lynne Browne can be reached on 703-308-1159. The fax phone numbers
~~for the organization where this application or proceeding is assigned are 703-872-9326~~
for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or
proceeding should be directed to the receptionist whose telephone number is 703-308-
1113.

jmh
jmh
April 28, 2003

James M. Hewitt
James M. Hewitt
Patent Examiner
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